

**COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE
MINUTES
APRIL 11, 2007**

TIME AND PLACE: The meeting of the Committee of the Joint Boards of Nursing and Medicine was convened at 9:06 A.M. in Board Room 1, Department of Health Professions, 6603 West Broad Street, Richmond, Virginia.

MEMBERS PRESENT: Lynne Cooper, Citizen Member, Board of Nursing, Acting Chairperson
Woody B. Hanes, R.N., M.S.N., F.N.P.
Jane E. Piness, M.D. (arrived at 9:15 a.m.)
Patricia M. Selig, R.N., F.N.P., Ph.D

MEMBERS ABSENT: Judith E. Piersall, R.N., B.S.N.
Sandra Anderson Bell, M.D.
Robert T. Mosby, Jr., M.D.

ADVISORY COMMITTEE MEMBERS PRESENT: Jennifer L. Bennett, M.D.
David O. Dick, R.N., C.R.N.A.
Barbara Kirkland, R.N., L.N.P.
Lynn Poole, R.N., F.N.P.
Chip Williams, M.D.

ADVISORY COMMITTEE MEMBERS ABSENT: Peter Boling, M.D.
Elaine Ferrary, R.N., L.N.P.
Steven B. Powers, M.D.

STAFF PRESENT: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director
Board of Nursing
Gloria D. Mitchell, R.N., M.S.N., M.B.A., Deputy Executive Director
Board of Nursing
Brenda Krohn, R.N., M.S., Deputy Executive Director
Board of Nursing
Donna M. Lee, Senior Discipline Specialist

OTHERS PRESENT: Howard M. Casway, Senior Assistant Attorney General
Elaine Yeatts, Regulatory Analyst
Jennifer Deschenes, Deputy Executive Director, Board of Medicine

ESTABLISHMENT OF A QUORUM: With four (4) members of the Committee present, a quorum was established.

ORDERING OF AGENDA: The agenda was reviewed and ordered.

PUBLIC COMMENT: No public comments were received at this time.

**DISPOSITION OF
MINUTES:**

The October 18, 2006 minutes were accepted by both the Board of Nursing and the Board of Medicine at their respective board meetings.

OLD BUSINESS:

Random Audit of Nurse Practitioner Protocols and Continued Competency:

Ms. Douglas informed the Committee that the nurse practitioner random audit had been conducted and was overseen by Ms. Krohn. There was a 68% return rate. Nurse practitioners were given 60 days to respond to the audits. There were three mailings involved: an educational mailing to notify nurse practitioners of the requirements for a protocol and continuing competency; follow-up mailing that the audit was going to happen; and then the mailing for the actual audit. There was a 37% compliance with protocol and continued competency requirements. Ms. Douglas further stated that the draft guidance document pertaining to continuing competency and protocol requirements violations was as a result of a review of the audit information with other boards of the Department of Health Professions to discuss how they handle non-compliance with continued competency requirements. Since 2003, boards have been given the authority to offer Confidential Consent Agreements (CCA) for non-patient harm and unlikely repeated offenses. Ms. Douglas explained that if a CCA is offered and entered, the matter is closed and it is considered a non-public and non-disciplinary matter. Nurse practitioners were given 60 days to respond to the audits.

The Committee modified the draft guidance document (See Attached). Dr. Selig motioned that the amended draft Guidance Document for Continuing Competency and Protocol Requirements Violations be presented at the Board of Nursing and Board of Medicine board meetings for discussion and approval. The motion was seconded and carried unanimously.

The Committee discussed the need for further guidance and education on nurse practitioners regarding regulatory requirement for protocols. Ms. Yeatts suggested to the Committee that a guidance document could be developed to outline the requirements for a protocol rather than posting a sample protocol on the website because the key ingredients of a protocol are contained in the definition itself. Ms. Poole suggested that a document be posted on the website for nurse practitioners to make them aware of the audit results and the outcome and consequences if non-compliant.

Dr. Selig motioned that a guidance document be drafted to outline the expectations and requirements of a protocol. The motion was seconded and carried unanimously.

Draft - Unapproved

Dr. Selig motioned that the draft guidance document pertaining to the protocol expectations and requirements be presented to the Board of Nursing and Board of Medicine for their discussion and approval. The motion was seconded and carried unanimously.

Ms. Hanes motioned that the guidance document when approved be mailed to nurse practitioners for their information. The motion was seconded and carried unanimously.

National Council of State boards of Nursing (NCSBN) APRN Advisory Panel Report:

Ms. Douglas stated that the National Council continues to study advanced practice regulatory issues. A draft Vision Paper has been sent out about the issues and there have been several national meetings with stakeholder groups. This matter has not been voted on by the NCSBN Delegate Assembly. Dr. Selig informed the Committee that a lot of effort has been involved in gaining the consensus from other states and she distributed a copy of a power point presentation from the NCSBN pertaining to the draft Vision Paper. (Attached)

NEW BUSINESS:

Regulations – Report of 2007 General Assembly:

Ms. Yeatts provided the Committee with an update on the regulations presented at the 2007 General Assembly.

“The Multi-state Nursing Licensure Compact: Making Nurses Mobile”

Ms. Douglas distributed an article pertaining to the Multi-state Nursing Licensure Compact: Making Nurses Mobile and informed the Committee that 22 states have passed legislation involving this issue and 20 states have actually implemented the program. (Attached)

Retail Clinics:

Ms. Douglas informed the Committee that Board staff has received inquiries from various providers and entities involved in the delivery of health care through the retail/convenience care clinic model. Ms. Douglas stated that there have been questions about the regulations and definition concerning the requirement for physicians to “regularly practice” in any location in which the licensed nurse practitioner exercises prescriptive authority. Ms. Douglas reviewed the statutory and regulatory requirements related to the circumstances and the requirement that physicians would have to “regularly practice” in that same location with the nurse practitioner. Ms. Douglas further stated that the Practice Agreement form submitted to the board does not include the type of practice environment for the nurse practitioner, and that the form may need to be modified. Mr. Casway stated that the intent of the regulation is

that the physician should actually be practicing at the same site. Ms. Poole suggested that the portion of the regulation of 19 VAC 90-40-100 dealing with the exceptions to the direct supervision by a physician should be separated so that it can be clearly understood.

Dr. Piness motioned that the Fast Track Action process be applied to the amendments to 18 VAC 90-40-100. The motion was seconded and carried unanimously. Dr. Selig motioned to initiate the Periodic Review of 18 VAC 90-40-100. The motion was seconded and carried unanimously.

The Committee directed Board staff to modify the Practice Agreement to include compliance with 18 VAC 90-40-100. Ms. Douglas also informed the Committee that it is possible to match the practice location for physicians to the practice location of the nurse practitioner through the physician profile system.

Use of Agency Subordinate for Informal Conferences:

Ms. Douglas explained to the Committee that in 2004, the Board was given authority to use agency subordinates to conduct informal conferences. This has been very helpful to the Board of Nursing. Ms. Douglas stated that there are times when nurse practitioner disciplinary cases have to be continued because staff is unable to get enough members of the Joint Boards of Nursing and Medicine to conduct an informal conference. Additionally, when Committee members are used for the informal conference, they are then “tainted” for any subsequent formal hearing. Therefore, Ms. Douglas would like the Committee to consider the idea of utilizing agency subordinates to conduct informal conferences for nurse practitioner cases. The agency subordinate would be someone that has the necessary expertise and can make a recommendation about a case. The Board of Nursing currently has three individuals that act as agency subordinates, and one of the individuals has a nurse practitioner license. The Committee discussed the agency subordinate process.

Both Dr. Selig and Ms. Cooper informed the Committee that the use of agency subordinates has been a good experience and effective process for the Board of Nursing. Ms. Deschenes said the Board of Medicine is not currently using the agency subordinate process, but it would like to start using a pilot agency subordinate program for some of its cases and it will be discussed with the Board of Medicine at its June meeting.

Ms. Douglas recommended that the matter be discussed at the Board of Nursing meeting in May and presented to the Board of Medicine so that an agreement can be made to start using the agency subordinate process for nurse practitioner disciplinary cases.

Department of Health Professions/Virginia Commonwealth University
Sponsored Web-based Continuing Education Offering for Physicians and
Nurse Practitioners, Specifically “PMP” and Chronic Pain Management”:

Ms. Douglas stated that the Department was working with VCU to implement this program if regulatory requirements were met. Ms. Deschenes informed the Committee that the CME programs will focus on pain management medicines, and it is web-based with interactive teaching modules. There will be a link on the DHP website that will connect to VCU. Ms. Yeatts recommended that DHP/VCU obtain approval from national certifying bodies as outlined in the nurse practitioner regulations.

Meeting Dates:

The next meeting is scheduled for June 20, 2007.

OTHER MATTERS:

Ms. Douglas announced that the formal hearing scheduled to follow the meeting was cancelled.

CLOSED SESSION:

Ms. Hanes moved that the Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the Code of Virginia at 11:10 A.M. for the purpose of consideration and discussion of a consent order. Additionally, Ms. Hanes moved that Mr. Casway, Ms. Douglas, Ms. Mitchell, and Ms. Lee attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Committee in its deliberations.

The motion was seconded and carried unanimously.

RECONVENTION:

The Committee of the Joint Boards of Nursing and Medicine reconvened in open session at 11:16 A.M.

Ms. Hanes moved that the Special Conference Committee of the Committees of the Joint Boards of Nursing and Medicine certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

ELEEN BRADY-MYRIE, R.N., L.N.P. – 0024-165243

Dr. Piness moved to accept the Consent Order for indefinite suspension of the Nurse Practitioner License of Eleen Brady-Myrie.

The motion was seconded and carried unanimously.

The Consent Order shall be effective upon entry by the Committee stating the findings, conclusions and decision.

ADJOURNMENT:

The meeting adjourned at 11:20 A.M.

Jay P. Douglas, R.N., M.S.M., C.S.A.C.
Executive Director, Board of Nursing

**VIRGINIA BOARD OF NURSING
SPECIAL CONFERENCE COMMITTEE OF THE
COMMITTEES OF THE JOINT BOARDS OF NURSING AND MEDICINE
MINUTES**

April 11, 2007

TIME AND PLACE: The meeting of the Special Conference Committee of the Committees of the Joint Boards of Nursing and Medicine was convened at 11:15 A.M., in Conference Room 1, Department of Health Professions, 6603 West Broad Street, Richmond, Virginia.

MEMBERS PRESENT: Patricia M. Selig, R.N., F.N.P., Ph.D.
Jane E. Piness, M.D.
Woody B. Hanes, R.N., M.S.N., F.N.P.

STAFF PRESENT: Jay P. Douglas, R.N., M.S.N., C.S.A.C., Executive Director
Gloria D. Mitchell, R.N., M.S.N., M.B.A., Deputy Executive Director, Discipline

PRESENTED FOR CLOSURE:

CLOSED MEETING: Dr. Selig moved that the Special Conference Committee of the Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the *Code of Virginia* at 11:15 A.M. for the purpose of deliberation regarding case disposition. Additionally, Dr. Selig moved that Ms. Douglas and Ms. Mitchell attend the closed meeting because their presence in the closed meeting is deemed necessary, and their presence will aid the Committee in its deliberations.
The motion was seconded and carried unanimously.

RECONVENTION: The Committee reconvened in open session at 11:35 A.M.

Ms. Hanes moved that the Special Conference Committee of the Committee of the Joint Boards of Nursing and Medicine certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.
The motion was seconded and carried unanimously.

Investigative reports regarding three licensed nurse practitioners were reviewed.

ACTION: Dr. Selig moved to close two of the above cases due to insufficient evidence to support allegations of any violation of the Nurse Practice Act or Board of Nursing regulations.
The motion was seconded and carried unanimously.

Dr. Piness moved to offer a confidential consent agreement to one of the above individuals, in lieu of initiating disciplinary proceedings.
The motion was seconded and carried unanimously.

ADJOURNMENT: The meeting was adjourned at 11:45 A.M.

Gloria D. Mitchell, R.N., M.S.N., M.B.A.
Deputy Executive Director, Discipline